

920 KAR 2:010. Standards for rape crisis centers.

RELATES TO: KRS 147A.050, 210.370, 211.600-211.608

STATUTORY AUTHORITY: KRS 211.602(2), 211.608, EO 2004-726

NECESSITY, FUNCTION, AND CONFORMITY: EO 2004-726, effective July 9, 2004, reorganized the Cabinet for Health Services and placed the Department for Mental Health and Mental Retardation within the cabinet. KRS 211.602(2) requires that a rape crisis center operate in accordance with administrative regulations promulgated by the Cabinet for Health and Family Services to be eligible to receive state funds and other allocations by the cabinet. KRS 211.608 requires the cabinet to promulgate an administrative regulation that specifies procedures for assuring the confidentiality of rape crisis center clients. KRS 211.600(1) requires the Cabinet for Health Services to designate regional rape crisis centers from each area development district. This administrative regulation establishes requirements for rape crisis centers designated by the cabinet.

Section 1. Definitions. (1) "Cabinet" means the Cabinet for Health and Family Services.

(2) "Governing board" or "board" means a board that meets the requirements of KRS 211.604.

(3) "Mental health discipline" means the practice of:

- (a) Psychology;
- (b) Social work;
- (c) Psychiatric nursing;
- (d) Marriage and family therapy;
- (e) Professional counseling; and
- (f) Art therapy.

(4) "Rape crisis center", or "center", means an organization designated by the cabinet in accordance with KRS 211.604(1).

(5) "Region" means an area development district created by KRS 147A.050.

(6) "Regional MHMR board" means a regional mental health and mental retardation board established in accordance with KRS 210.370.

(7) "Secretary" means the secretary of the Cabinet for Health and Family Services.

(8) "Victim" means:

- (a) A person who has been raped or sexually abused;
- (b) A family member of a person who has been raped or sexually abused; or
- (c) A friend, or other person associated with, a person who has been raped or sexually abused, and who has been affected by the rape or abuse.

Section 2. Designation and Recision of the Designation of a Rape Crisis Center. (1) An organization which has been funded by the cabinet to provide rape crisis services for the state fiscal year ending June 30, 2000 shall be the designated rape crisis center for the region in which it is located, unless the secretary rescinds the designation in accordance with subsection (2) of this section.

(2) A center's designation is subject to recision if the cabinet determines that:

(a) It failed to submit a plan and budget which substantiates that it has the capacity to provide the services specified in KRS 211.600(3), in accordance with Section 16(1) of this administrative regulation;

(b) Its plan and budget is disapproved; or

(c) It has failed to operate in accordance with a requirement of this administrative regulation.

(3) The cabinet shall notify a center in writing if the secretary rescinds the designation of the center as a regional rape crisis center. The notification shall:

- (a) Specify the effective date of the recision;

- (b) Identify the paragraph of subsection (2) of this section upon which the recision is based; and
- (4) Inform the center that it may request an administrative hearing, in accordance with Section 17 of this administrative regulation, to dispute the cabinet's decision.

Section 3. Requirements for a Board. (1) A board shall adopt written bylaws, that specify the:

- (a) Purpose of the center;
- (b) Qualifications for board members;
- (c) Types of members including:
 - 1. Voting; and
 - 2. Ex-officio;
- (d) Procedure for selecting a member;
- (e) Terms of board membership;
- (f) Method of filling a vacancy;
- (g) The name, responsibility, and composition of each committee;
- (h) Officers and the duties of officers;
- (i) Procedure for election of officers;
- (j) An annual meeting date for the election of officers;
- (k) Procedure for removing a member; and
- (l) Quorum requirements for a board meeting.

(2) The board shall:

- (a) Perform the functions specified in KRS 211.604(2);
- (b) Record written minutes of each meeting of the board. The minutes shall specify the:
 - 1. Date and place of the meeting;
 - 2. The name of each member present;
 - 3. Each matter discussed;
 - 4. Each action taken; and
 - 5. Name of the reporter;
- (c) Establish the following standing committees:
 - 1. Executive;
 - 2. Nominating;
 - 3. Finance;
 - 4. Personnel; and
 - 5. Program planning and evaluation;
- (d) Retain minutes of each board meeting for five (5) years; and
- (e) Establish written policies and procedures for the center.

(3) The written policies and procedures shall include:

- (a) Procedures which preserve the confidentiality of individual client records in accordance with applicable law; and
 - (b) A requirement that a person who provides a service shall assert and maintain the privileges conferred upon that person by federal and state law applicable to:
 - 1. The confidentiality of client records; and
 - 2. The disclosure of personally identifying information about a victim.
- (4) A board shall not contract with a member of the board to perform personal or professional services.

Section 4. Personnel Administration. (1) A center shall establish a personnel file for each employee which shall include:

- (a) An application for employment;
- (b) Documentation that the employee meets the qualifications for the position the employee

holds, as specified in Sections 5(2), (4), and 6 of this administrative regulation; and

(c) A position description which specifies the:

1. Title of the position;
2. Duties of the position; and
3. Training and experience required to qualify for the position.

(2) The board shall establish personnel policies which govern

(a) Attendance and leave;

(b) Compensation;

(c) Fringe benefits;

(d) Circumstances which disqualify a person from serving as:

1. An employee;
2. A contractor; or
3. A volunteer;

(e) Employee grievance procedures;

(f) Employee performance evaluations;

(g) Equal opportunity employment;

(h) A requirement for submission of documentation by an applicant that demonstrates the qualifications of the applicant;

(i) A requirement that an applicant submit documentation of a sanction previously imposed, or pending, against the applicant's license or certification; and

(j) A procedure for verifying an applicant's qualifications.

(3) The policy required by subsection (2)(d) of this section shall disqualify a person from performing a client service, if the person has been:

(a) Convicted of a sex crime defined in KRS 17.165; or

(b) Convicted as a violent offender as defined in KRS 17.165.

(4) A center shall conduct a criminal records check on:

(a) An applicant for a paid or volunteer position that includes a duty to provide services to a victim; and

(b) A prospective contractor, if the contract is to provide services to a victim.

(5) A center shall maintain a list of persons with whom it contracts to provide therapy services.

(6) A contract for performance of a service or administrative function shall provide that the cabinet shall have access to the contractor's facilities, staff, and records, as necessary for the cabinet to evaluate the contractor's performance.

(7) If a center contracts for performance of therapy services, the contract shall specify requirements for:

(a) Individual client records;

(b) Documentation of services performed;

(c) Confidentiality of client related information;

(d) Specialized training required of the therapist concerning the treatment of victims;

(e) The fees that may be charged to a client; and

(f) The contractor's disclosure of:

1. Punitive action taken against the contractor by a licensing or certification board, prior to or during the period the contract;

2. A pending complaint that may result in punitive action against the contractor by a licensing or certification board;

3. A conviction of the contractor on a criminal charge;

4. A criminal charge currently pending against the contractor;

5. The result of an adjudicated civil action against a contractor, related to the contractor's professional practice; and

6. A pending civil action against the contractor, related to the contractor's professional practice, that may result in punitive action by a licensing or certification board.

Section 5. Required Personnel. (1) The governing board shall employ an administrative director who shall:

- (a) Be responsible for financial management of the center;
 - (b) Supervise the performance of staff and volunteers;
 - (c) Coordinate the design and delivery of rape and sexual abuse intervention services;
 - (d) Fulfill other duties assigned by the governing board;
 - (e) Report to the board on all center activities; and
 - (f) Ensure that a provider of a direct client service meets requirements of the professional board with regulating authority for the provider's practice.
- (2) The qualifications of an administrative director shall be:
- (a) A masters degree from an accredited college or university; or
 - (b) A bachelors degree from an accredited college or university, and three (3) years of administrative experience.
- (3) An administrative director shall, in order to coordinate direct services to clients:
- (a) Possess a certificate or license to practice, under the law of the Commonwealth of Kentucky, in a mental health discipline; or
 - (b) Employ and supervise a person who possesses a certificate or license to practice, under the law of the Commonwealth of Kentucky.
- (4) The board shall employ or contract for personnel to provide the services required by KRS 211.600(3).

Section 6. Qualifications of Service Providers. (1) A person who performs a crisis telephone service shall receive forty (40) hours of training on issues relevant to crisis intervention.

- (2) A person who performs a crisis counseling service shall:
- (a) Be supervised by a person described in Section 5(3) of this administrative regulation;
 - (b) Have a bachelors degree from an accredited college or university; and
 - (c) Participate in forty (40) hours of training on rape and sexual abuse issues, within (3) three months of employment.
- (3) Eight (8) hours of the training required by subsection (2)(c) of this section shall occur prior to the performance of a crisis counseling service.
- (4) A person who performs a therapy service shall:
- (a) Have a certificate or license to practice a mental health discipline under the laws of the Commonwealth of Kentucky;
 - (b) Have a masters degree in a mental health discipline from an accredited college or university;
 - (c) Have one (1) year of counseling or clinical experience; and
 - (d) Participate in forty (40) hours of training on rape and sexual abuse issues, within three (3) months of employment.
- (5) Eight (8) hours of the training required by subsection (4)(d) of this section shall occur prior to the performance of a therapy service.
- (6) A person who supervises medical or legal advocacy services shall:
- (a) Have a bachelors degree from an accredited college or university;
 - (b) Participate in forty (40) hours of training on issues related to rape and sexual abuse, within three (3) months of employment; and
 - (c) Meet the definition of a victim's advocate in KRS 421.570.
- (7) Eight (8) hours of the training required by subsection (6)(b) of this section shall occur prior to the performance of a medical or legal advocacy service.

- (8) A person who supervises a volunteer shall have:
 - (a) A high school diploma; and
 - (b) Five (5) years of volunteer or work experience; and
 - (c) Participate in forty (40) hours of training on issues related to rape and sexual abuse prior to supervising a volunteer.
- (9) A person who performs a volunteer service shall:
 - (a) Be twenty (20) years of age;
 - (b) Participate in forty (40) hours of training related to rape and sexual abuse prior to performing a volunteer service; and
 - (c) Be qualified in accordance with the requirements of this section which apply to the services that the volunteer is assigned to provide.
- (10) A staff member who performs a public education service shall:
 - (a) Have a bachelors degree from an accredited college or university; and
 - (b) Participate in forty (40) hours of training on issues related to rape and sexual abuse, within three (3) months of employment.
- (11) Eight (8) hours of the training required by subsection (10)(b) of this section shall occur prior to the performance of a public education service.
- (12) The qualifications specified in subsections (1) through (11) of this section shall not apply to an employee hired or a contractor engaged prior to the effective date of this administrative regulation if the employee or contractor meets the requirements that were in effect at the time the employee was hired or the contractor was engaged.
- (13) A person who provides client services shall participate in at least eight (8) hours of continuing education annually.

Section 7. Requirements for Crisis Services. (1) A rape crisis center shall assure that the following crisis services are available to a victim twenty-four (24) hours a day, seven (7) days a week:

- (a) A toll-free crisis telephone service to include:
 - 1. A text telephone capacity; or
 - 2. Equivalent assistive technology for the deaf and hard of hearing.
 - (b) Crisis counseling services.
- (2) A victim who calls the crisis telephone service shall not be required to identify himself or herself.
- (3) A center shall establish policies and procedures for the operation of the crisis telephone service, as required by subsection (1)(a) of this section that specify conditions under which an employee or volunteer who answers a crisis call shall contact a supervisor.
- (4) The policies and procedures shall require that a supervisor be contacted if:
- (a) A caller seems to present a danger to self or others;
 - (b) A caller is in danger; or
 - (c) The intervention of law enforcement may be appropriate.
- (5) A person who responds to a crisis telephone call outside the center's regular business hours shall inform supervisory staff by the close of business on the following business day.
- (6) A call that alleges or provides evidence of abuse, neglect, or exploitation shall be reported in accordance with:
- (a) KRS 620.030, if applicable; or
 - (b) KRS 209.030, if applicable.
- (7) The center shall document each crisis telephone call in a log. Documentation shall include:
- (a) The time, date, and purpose of the call;
 - (b) The name of the caller if given voluntarily;
 - (c) A referral made as a result of the call, if any; and

- (d) Other action recommended by the employee or volunteer who answered the call, if any.
- (8) Face-to-face crisis counseling services shall be available during the regular business hours of the center and, at other hours, by appointment.
- (9) A center shall not charge a recipient of crisis counseling services for three (3) or fewer visits.
- (10) If a client needs or requests a service in addition to the counseling visits provided at no cost, in accordance with subsection (9) of this section, the center shall:
 - (a) Provide the service; or
 - (b) Refer the client to another practitioner who, or agency which, provides the service.

Section 8. Requirements for Mental Health and Related Support Services. (1) Mental health and related support services shall include:

- (a) Therapy;
- (b) Information; and
- (c) Referral services.
- (2) Therapy may include:
 - (a) Individual psychotherapy;
 - (b) Family psychotherapy;
 - (c) Group psychotherapy; and
 - (d) Medication management.
- (3) Therapy shall be available during regular business hours of the center.
- (4) A center shall maintain a record of current information about financial, medical, mental health, social services, and other resources for the referral of a victim.

Section 9. Requirements for Advocacy Services. (1) Advocacy services shall include both legal and medical advocacy services.

- (2) Advocacy services shall be available twenty-four (24) hours a day, seven (7) days a week, at no cost to a victim.
- (3) Advocacy services provided outside regular business hours shall be documented by the close of business on the following business day.
- (4) The center shall establish a protocol for advocacy services, listing the conditions under which a person who provides advocacy services shall contact a supervisor.
- (5) Legal advocacy services shall include:
 - (a) Accompanying a victim to a court proceeding or a meeting with law enforcement or a criminal justice agency; and
 - (b) Educating a victim regarding:
 - 1. How the legal system operates; and
 - 2. The Victims Bill of Rights specified in KRS 421.500 to 421.575.
- (6) Legal advocacy services shall be limited to support and education, and shall not include offering legal advice or otherwise engaging in the practice of law, unless the service is provided by a licensed attorney;
- (7) Medical advocacy services shall include:
 - (a) Accompanying a victim to a forensic rape examination or other medical care necessitated by the rape and sexual abuse; and
 - (b) Educating a victim regarding how the health care system operates.

Section 10. Requirements for Consultation Services. (1) Consultation services shall include discussion:

- (a) Related to a victim; and
- (b) About the design of a program to assist a victim.

- (2) Consultation on behalf of a victim shall be:
 - (a) Available twenty-four (24) hours a day, seven (7) days a week at no cost; and
 - (b) Provided under conditions that protect the victim's confidentiality.
- (3) The center shall obtain written permission for release of information from the victim prior to disclosure of personally identifying information.

Section 11. Requirements for Public Education Services. (1) Public education services shall include:

- (a) Prevention;
 - (b) Risk reduction;
 - (c) General information;
 - (d) Training programs regarding rape, sexual abuse, or related issues for schools, community groups, or professionals; and
 - (e) Development or distribution of written materials which provide information on:
 - 1. Rape and sexual abuse; and
 - 2. How to contact the center for services.
- (2) Public education materials shall be prepared for an audience that is diverse in religion, race, disability, culture, and sexual orientation.
- (3) A center shall evaluate its public education programs using information from education program participants.

Section 12. Volunteer Program. A rape crisis center shall maintain a roster of volunteers who may assist with the provision of:

- (1) A direct service to a victim of rape or sexual abuse; and
- (2) Administrative services for the center.

Section 13. Client Files. (1) A center shall document each service provided, to include:

- (a) The date the service is performed;
 - (b) The recipient of the service;
 - (c) The type of service; and
 - (d) The name and title of the service provider.
- (2) A rape crisis center shall establish a file for each victim who is provided a therapy service. The file shall include:
- (a) A current service plan that identifies the services needed by the victim; and
 - (b) A statement of the goals for intervention.
- (3) A client file shall be confidential, except as otherwise provided by law.

Section 14. Client Satisfaction and Grievances. (1) A rape crisis center shall establish a written grievance procedure that shall:

- (a) Be given to each client who comes to the center for a service;
 - (b) Contain a description of the services provided by the center; and
 - (c) Specify the procedure for filing a client grievance.
- (2) A center shall evaluate, annually, the level of client satisfaction with its services, using information provided by clients.

Section 15 Monitoring. (1) The cabinet may monitor and review programs related to:

- (a) The quality of a center's services;
- (b) Compliance with the requirements of this administrative regulation;
- (c) Implementation of a center's approved plan and budget.

(2) Monitoring may include:

- (a) Review of client records;
- (b) Review of a report submitted to the cabinet;
- (c) On-site visit for technical assistance or consultation;
- (d) Interviews with the following persons:
 - 1. A center employee;
 - 2. A contract service provider;
 - 3. A volunteer; or
 - 4. A victim if they agree to participate in an interview; and
- (e) Investigation of a problem or complaint.

(3) A rape crisis center, and a subcontractor of a rape crisis center, shall grant the cabinet reasonable access to its facilities, staff, and records.

(4) The cabinet, in its monitoring and review in accordance with subsection (1) of this section, shall preserve the confidentiality of a client record in accordance with KRS 214.185, and 194A.060, 902 KAR 20:091, Section 3(4)(c).

Section 16. Funding. (1) An entity designated as a regional rape crisis center shall submit the "Funding Application for Rape Crisis Centers and Rape Victim Services Programs" no later than ninety (90) days prior to the beginning of the period for which funds are requested.

(2) A center shall be eligible to receive state funds and other allocations from the cabinet upon the secretary's approval of a funding application submitted in accordance with subsection (1) of this section.

Section 17. Administrative Hearing Procedure. (1) A request for an administrative hearing shall be received by the cabinet no later than thirty (30) days after the date of the notice required by Section 2(3) of this administrative regulation. The request shall:

(a) Identify the disputed decision; and

(b) State the basis on which the secretary's decision is believed to be unwarranted or erroneous.

(2) An administrative hearing shall be conducted by a hearing officer knowledgeable of cabinet policy.

(3) The administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(4) A request for a hearing shall be considered abandoned if the appellant does not appear at the hearing on the scheduled date and the hearing has not been previously rescheduled.

(5) A center may withdraw a request for an administrative hearing by:

- (a) Notifying the hearing officer, in writing, that the center wishes to withdraw the request; or
- (b) Stating on the record, at the hearing, that the center withdraws the request.

Section 18. Material Incorporated by Reference. (1) "Funding Application for Rape Crisis Centers and Rape Victim Services Programs (July 1993)" form is incorporated by reference.

(2) This material may be obtained, inspected, or copied, subject to applicable copyright law, at the Division of Mental Health, Department for Mental Health and Mental Retardation Services, Cabinet for Health and Family Services, Leestown Square, 4th Floor, Fair Oaks Lane, Frankfort, Kentucky 40601, 8 a.m. to 4:30 p.m., Monday to Friday. (19 Ky.R. 2779; Am. 20 Ky.R. 380; 518; eff. 9-3-1993; 27 Ky.R. 1949; 2488; eff. 3-6-2001; Recodified from 908 KAR 2:070, 4-4-2007.)